

REMARKS

Reconsideration of the rejections set forth in the Office Action mailed August 21, 2006, is respectfully requested. Claims 1 and 49 have been amended. Claims 29, 74-83, and 89 have been cancelled without prejudice. Support for these amendments can be found in the specification at, e.g., page 5, lines 5-17. Therefore, these amendments were made without the addition of new matter. Claims 1-2, 4-10, 12-13, 15-16, 49, 84, 86-88, 90-92, 94-95, 97-100, 103-108, and 111 remain pending.

Claim Objections

Claims 75 and 89 were objected to under 37 CFR 1.75(c) as being of allegedly improper dependent form for failing to further limit the subject matter of a previous claim. Without conceding the propriety of the rejection, claims 75 and 89 were cancelled without prejudice. Therefore, the objections to these claims are now moot.

Art Rejections

Claims 1, 4-8, 10, 13, and 16 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Goetz et al. (USP 3,692,018). Claims 9 and 12 were rejected as allegedly anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as allegedly obvious over Goetz et al. Claims 2, 29, 49, 74-81, 84, 86-92, 94, 95, 98, 103-106, and 111 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Goetz et al. Claims 15, 83, 97, 99, 100, 107, and 108 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Goetz et al. in view of Karcher et al. (USP 4,697,574).

Claims 29, 74, 76-81, and 93 have been cancelled. Therefore, the rejections to these claims are now moot.

Applicants have amended claims 1 and 49 to specify that the inflated member is deflated *“during the ejection phase of the left ventricle while expansion of the expandable member is maintained, wherein the pumping action of the heart is mechanically assisted.”* Goetz does not teach or suggest a method with this step. In contrast, Goetz teaches that the expandable member (occluding chamber 3 in Figs. 1-4) is deflated before the inflatable member (pumping chamber 4 of Figs. 1-4) is deflated. (“With the solid obstruction member it will be recognized that deflation of the occluding chamber also occurs in a sequential manner. In other words, during the deflation phase a reverse flow of air out of the balloon is created first from the occluding chamber through the perforations 8' and then from the pumping chamber.” Col. 4, lines 32-38) Alternatively, Goetz teaches that both the expandable member and the inflatable member are deflated simultaneously. (“The occluding and pumping chambers may advantageously be deflated substantially simultaneously by replacing the solid obstruction member with a one-way valve such as the ball valve 12 shown in FIG. 2. ... Simultaneous deflation of the occluding and pumping chambers is advantageous since very little time is consumed between successive beats of the heart. Thus the possibility that the pumping structure will pulsate in appropriate coordination with the heartbeat is thereby greatly enhanced.” Col. 4, lines 46-64) Therefore, Goetz does not teach or suggest all of the limitations of amended claims 1 and 49. Claims 2-16 and 108-111 depend from claim 1 and claims 84-106 depend from claim 49, and are therefore patentably distinct for the same reasons. Applicants respectfully request withdrawal of the rejections and reconsideration of the claims as amended.

Favorable action on the merits of the claims is therefore earnestly solicited. If any issues remain, please contact Applicant's undersigned representative at (949) 760-9600. The Commissioner is hereby authorized to charge any additional fees that may be required to Deposit Account No. 50-2862.

Respectfully submitted,
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